

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Commerce and Consumer Services Committee

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BILL: CS/SB 1288

SPONSOR: Commerce and Consumer Services Committee and Senator Aronberg

SUBJECT: Labor Pools

DATE: March 16, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gordon	Cooper	CM	<b>Fav/CS</b>
2.			BI	
3.			JU	
4.				
5.				
6.				

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## I. Summary:

This committee substitute authorizes a labor pool pay day laborers in cash from a cash-dispensing machine, and a transaction fee of up to \$1.99 to be imposed, under certain conditions.

This committee substitute amends the following section of the Florida Statutes: 448.24.

## II. Present Situation:

### *Labor Pools*

Part II of ch. 448, F.S., also known as the Labor Pool Act, was enacted in 1995 to protect the health, safety and well-being of day laborers throughout Florida.<sup>1</sup> Section 448.24, F.S., of the act addresses the duties and rights of the day laborers. Paragraph (2)(a) directly addresses compensation of day laborers employed by labor pools, to allow only two methods of payment. The labor pool must:

Compensate day laborers for work performed in the form of cash, or commonly accepted negotiable instruments<sup>2</sup> that are payable in cash, on demand at a financial institution, and without discount.<sup>3</sup>

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<sup>1</sup> Sections 448.20-448.25, F.S.

<sup>2</sup> Section 673.1041, F.S., defines negotiable instrument, in pertinent part, as "an unconditional promise or order to pay a fixed amount of money."

<sup>3</sup> Id. (Footnote added).

Since passage of the Labor Pool Act, cash dispensing machines (CDMs) have become available as a method to dispense cash compensation to day laborers. A CDM is similar to an automated teller machine (ATM) and dispenses money in paper currency, but not in coins. Labor pools may either own or lease CDMs. The cash stored in the CDM is typically provided by a financial institution under a contract with the labor pool.

### ***Check Cashing***

Part III of ch. 560, F.S., governs check cashing and foreign currency exchange. Section 560.309(4), F.S., sets fees that may be charged by check cashing establishments registered under that part:

(4) Exclusive of the direct costs of verification which shall be established by commission rule, no check casher shall:

(a) Charge fees, except as otherwise provided by this part, in excess of 5 percent of the face amount of the payment instrument, or 6 percent without the provision of identification, or \$5, whichever is greater;

(b) Charge fees in excess of 3 percent of the face amount of the payment instrument, or 4 percent without the provision of identification, or \$5, whichever is greater, if such payment instrument is the payment of any kind of state public assistance or federal social security benefit payable to the bearer of such payment instrument; or

(c) Charge fees for personal checks or money orders in excess of 10 percent of the face amount of those payment instruments, or \$5, whichever is greater.

No similar provision exists for banks. Financial institutions have the discretion of establishing their own safety and soundness standards and, therefore, may refuse to cash checks for individuals who are not account holders and who do not have proper identification.

Chapter 560, F.S., regulates money transmitters and defines them as: “Any person located in or doing business in this state who acts as a payment instrument seller, foreign currency exchanger, check casher, funds transmitter or deferred presentment provider.”<sup>4</sup> Check cashers and financial institutions such as banks are required to be registered under ch. 560, F.S.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 448.24, F.S., to permit a labor pool to provide a cash-dispensing machine (CDM) on its premises for use by its day laborers, for a transaction fee not to exceed \$1.99, under the following conditions:

- The labor pool offers payment by check, in compliance with s. 448.24(2)(a), F.S.;

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<sup>4</sup> Section 560.103(11), F.S.

- The laborer chooses to accept payment in cash through the CDM after disclosure of the transaction fee; and
- The CDM requires affirmative action by the day laborer to either accept the fee or negate the transaction in lieu of payment as required under s. 448.24(2)(a), F.S.

Any coinage under \$1 due to the day laborer is retained in the transaction fee, which cannot exceed \$1.99 per transaction.

In addition, in order to provide the CDMs, the labor pool or its affiliate must be registered under ch. 560, F.S., if so required.

**Section 2** provides an effective date of July 1, 2005.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Day laborers who choose to use a CDM for payment of their wages will be subject to a transaction fee not to exceed \$1.99. Research indicates this fee is less than the “check cashing fees” charged by check-cashing services and financial institutions.

C. Government Sector Impact:

None.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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